

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JERRY AGOSTINI,

Petitioner,

v.

CIVIL ACTION NO. 5:08-cv-00809

OHIO ADULT PAROLE AUTHORITY,

Respondent.

**MEMORANDUM OPINION AND ORDER
ADOPTING THE PROPOSED FINDINGS AND RECOMMENDATION**

The Court has reviewed Petitioner's *Letter-Form Writ of Habeas Corpus* submitted pursuant to 28 U.S.C. § 2241 filed on June 4, 2008. (Document No. 1) By *Standing Order* entered on June 4, 2008, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. (Document No. 2)

On June 20, 2011, the assigned Magistrate Judge submitted his Proposed Findings and Recommendation ("PF&R") (Document No. 8) wherein he found that the instant case or controversy has been rendered moot by Petitioner's release from custody.¹ He has recommended that this Court dismiss the Petitioner's Writ of Habeas Corpus as moot and remove this matter from the Court's docket.


¹ Despite stating that a memorandum detailing the grounds for relief accompanied his Letter-Form Writ, the record does not contain any such document.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Objections to the PF&R were due on July 8, 2011. To date, Petitioner has not filed any objections or other response to the PF&R. As the Magistrate Judge observed, Petitioner appears to have been released from custody in both West Virginia and Ohio.² Inasmuch as Petitioner did not provide the Court with his forwarding address, the PF&R sent to him on June 20, 2011, was returned as undeliverable. (Document No. 9)

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that Petitioner's *Letter-Form Writ of Habeas Corpus* (Document No. 1) be **DISMISSED**, and that this action be **REMOVED** from the Court's Docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: July 11, 2011


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA

² (See PF&R at 2, n.3.)